

TOWN OF KITTERY, MAINE
PLANNING BOARD MEETING
Council Chambers

APPROVED
January 8, 2015

Meeting called to order at 6:04 p.m.

Board Members Present: Karen Kalmar, Deborah Driscoll, David Lincoln, Ann Grinnell, Robert Harris;
Tom Emerson

Members absent: Mark Alesse

Staff: Chris DiMatteo, Town Planner

Pledge of Allegiance

Minutes: December 18, 2014

Ms. Kalmar moved to accept as submitted

Mr. Harris seconded

Motion carried: 6-0-0

Public Comment:

Ken Wood, Attar Engineering, asked about status of the soil suitability ordinance.

Mr. DiMatteo: This has been reviewed in a workshop with Council and the goal for adoption is sometime in February.

PUBLIC HEARING / OLD BUSINESS

ITEM 1 – Town Code Amendment - Title 16.10.9.1.4. Approved Plan Expiration, Title 16.10.9.1.5 Requests for Extension and Title 16.9.3.8 Expiration of Wetlands Alteration Approval. Action: Hold a public hearing, review amendment and make recommendation to Town Council for adoption.
Proposed amendment reduces the period of time in which extensions can be granted and modifies the process for extension requests.

Ms. Grinnell: This is before the board to meet noticing and public hearing requirements. There are no proposed changes to this ordinance amendment.

The Public Hearing opened and closed at 6:10 p.m. with no comment

Ms. Kalmar moved to forward to Council for adoption amendments to Title 16.10.9.1.4. Approved Plan Expiration, Title 16.10.9.1.5 Requests for Extension and Title 16.9.3.8 Expiration of Wetlands Alteration Approval.

Ms. Davis seconded

Motion carried: 6-0-0

This will be heard at the Council meeting of January 26.

~~**ITEM 2 – McCoy Residence – Shoreland Development Plan Review.** Action: Hold a Public Hearing, grant or deny Plan approval. Kevin and Terry McCoy, owners/applicant request approval for a noneconforming structure reconstruction to include removal of an existing house, garage and shed and construct a new house, garage and barn at 24 Goose Point, Kittery, Tax Map 34 Lot 9 in the Residential-Rural, Shoreland and Resource Protection Overlay zones. Agent is Architect Tom Emerson, Studio B-E~~
THIS ITEM HAS BEEN RESCHEDULED TO THE 2/12/15 MEETING.

ITEM 3 – Pine Tree Plaza Site Plan – Modification to an Approved Plan Action: Hold a Public Hearing, grant or deny Plan approval. Kenneth Lemont, owner/applicant (for Harrison E. Lemont Management Co., Inc.), requests approval to amend an approved Site Plan to replace an existing building

and ell with a new 2,450 sf building, and increase the existing garage at 435 US Route 1 in the Mixed Use zone, Tax Map 50, Lot 8. Agent is Jeff Clifford, P.E. with Altus Engineering, Inc.

Ken Lemont, owner/applicant: Stated he hired Jeff Clifford of Altus Engineering to perform engineering services, and summarized highlighted plan changes:

- proposed lighting on the site will be dark-sky friendly fixtures to avoid light pollution;
- the existing garden has been reconfigured, but not expanded due to the existing building and tree;
- designed rain garden to assist in stormwater runoff.

Mr. Lincoln:

- Has the impervious surface runoff been addressed?
- Will the garage be used vehicle repair or for storage?
- What is proposed for the planting area between parking and the road?
- CMA notes this plan will enhance the Route 1 corridor. There does not appear to be much planting between the parking areas and the road. Current facility is an eyesore, with no vegetated buffer.
- What are your signage plans? Current signage is not attractive.

Mr. Lemont:

- The runoff will be addressed through a stormwater management plan, including a rain garden. Sheet C-3 illustrates flow direction of stormwater to the rain garden.
- The garage will be used for storage for the retail store, not for vehicle repair.
- Additional plantings can be considered in addition to what is proposed, if the Board so requests. A professional landscape designer can be hired.
- New signage will be redesigned by a professional, while some is already permitted and existing. There is no proposed replacement signage.

Ms. Grinnell: Signage is not before Board; sign applications go to Code Enforcement.

Ms. Wells: Will there be a landscape plan?

Mr. Lemont: He is willing to work with the Board and staff and a landscape professional to address this issue.

The Public Hearing opened and closed at 6:20 p.m. There was no public comment

Ms. Kalmar moved to grant preliminary plan approval for the Pine Tree Plaza Site Plan Modification to replace an existing building and ell with a new 2,450 sf building, and increase the existing garage at 435 US Route 1 in the Mixed Use zone, Tax Map 50, Lot 8.

Mr. Emerson seconded

Ms. Davis: Is the site plan the survey? It should be stamped and signed. Where is the stockade fence to be located? If a guardrail is required at the rain garden, it should be wood, not metal.

Mr. Markley: It is a survey.

Mr. Lemont: The fence will be placed around the dumpster.

Mr. DiMatteo: Most of the outstanding issues are landscaping and lighting. CMA has not yet reviewed the stormwater analysis and plan. These will be reviewed prior to final approval.

Ms. Kalmar: A waiver of the YCSWC review requirement is needed.

Mr. Lincoln: Between the parking area and street, there should be a significant planting buffer. Does the Board need to review signage?

Ms. Grinnell: Signage is reviewed by Code and Planning through a permit application.

Mr. Emerson: Additional landscaping on the right of the proposed building will balance the design.

Motion carried: 6-0-0

ITEM 4 – Board Member Items / Discussion

A. Amendments to Title 16, Discuss Town Council 1/5 Joint Workshop

Ms. Grinnell: This was a productive meeting, and we're looking forward to proceeding.

Discussion followed regarding amendments for the January 26 Council meeting. Members will receive copies of the Council packets, probably by January 19.

Ms. Kalmar: Bike-pedestrian plans and overlay zones involving Tom Emerson. Requested that the code amendment regarding a pre-construction meeting remain on the Action List.

Ms. Grinnell: Would like to discuss the decision from Attorney McEachern.

Mr. Emerson: The opinion states the group does not exist, except as referenced in the Code (16.3.2.15.F).

Mr. DiMatteo: As outlined by the Town Manager, the Board has been asked to review the role of the group, what can the group do that the Board cannot, and be prepared to discuss this with Council.

Board members concurred that this discussion should be held at the February 26 meeting.

Mr. DiMatteo: Will discuss whether the group has been or will be included in Council discussions.

Ms. Grinnell: We have an application before us now and there may be others before this is resolved.

Mr. Emerson: Without an existing Foreside Committee review, the Board has been operating as the review authority, per the Attorney's opinion.

Ms. Davis: Also include on the Action List the checklist of items that staff reviews with the applicant prior to Board review.

ITEM 5 – Town Planner Items

NEW BUSINESS

ITEM 6 – Old Armory Way Mixed Use Development — Preliminary Site Plan – Completeness Review Action: Accept or Deny Plan Application, schedule a Public Hearing and Site Walk.

Owner/applicant Ken McDavitt requests approval to construct a 3-unit residential condominium with 8 commercial boat slips at 15 Old Armory Way, Tax Map 4, Lot 51 in the Mixed Use Kittery Foreside Zone, and the Shoreland and Commercial Fisheries/Maritime Activities Overlay Zones. Agent is Edward Brake, Attar Engineering, Inc., Eliot, Maine.

Ms. Grinnell: This is a review for completeness, and is not a public hearing. If the application is determined complete, a public hearing and site walk will be scheduled.

Ken McDavitt: This property was purchased 11 years ago. As a sailor, would like to tie his boat alongside his home and retire in Kittery. He spoke with the Foreside Group in 2005 and made his intentions to develop the property known. The proposal is to remove a 3-family structure which does not meet building standards or setback requirements and replace with two new buildings with three units that meet current standards. A proposed private marina will provide 8 boat slips to be used by condominium owners, and offer slip leases to neighbors and residents. The marina will be private, not public.

Sandy McDavitt: Many generations of her family have lived in Kittery, and this proposal offers them an opportunity to live in Kittery and enjoy the waterfront with her children and grandchildren.

Ms. Kalmar: The staff is concerned about the adequacy of the boundary survey.

Mr. DiMatteo: Attar Engineering's site plan references a 1986 survey. It is unclear if this meets requirements for a boundary survey. The building area is tight, so the boundary and the ROW needs to be clear. Is a new survey needed or can the old one be certified?

Ken Wood, Attar Engineering: This is a standard boundary survey showing and describing the width by meets and bounds of Old Armory Way that meets today's standards. A new survey may be described differently, but the location of the building from the ROW and HAT is accurate. They have located and tied into markers found on both sides of the roadway, conducted the survey, and meets survey requirements. The original plan was submitted in full size.

Mr. DiMatteo: Is the boundary for Old Armory Way fixed? If not, can it be certified that it is uncertain.

Mr. Wood: There is no evidence that it is not fixed. Surveys can disagree on any particular parcel. If property owners along Old Armory Way feel the survey is incorrect, this can be addressed. They have tied into monumentation found on both sides of the road and the TF Moran survey, and have found nothing to the contrary. Mr. Wood explained the process of utilizing the original survey to exact their site plan design. Monumentation used in 1986 have been used now that fixes the ROW at 22 feet.

Ms. Grinnell: Would like CMA to comment as to whether a current boundary survey of the lot would be needed.

Mr. Lincoln: The existing house is very old, and may or may not have historical significance. Do you live on the property?

Mr. McDavitt: The existing three units are leased and I live in Sanbornville.

Ms. Grinnell: Will the slips be long-term or short-term leases? Public access (16.8.15.1.N) is required.

Mr. McDavitt: Leases will be market driven. They will address the public access requirement.

Mr. Lincoln: Does the proposal meet the MU-KF requirements?

Mr. DiMatteo: The application meets the requirements for preliminary review and will have to meet all relative code requirements for this project for final approval.

Discussion followed regarding Port Authority and Planning Board review process. Ms. Davis asked about a joint public hearing with the Port Authority. Mr. DiMatteo: The reviews are different, upland versus shoreland, and the Authority must provide comments to the Board before approval.

Mr. Harris: It appears this development would improve the area, in his opinion.

Earledean Wells: The Conservation Commission would like to know about overflow parking arrangements.

Ms. Grinnell: Would like an updated traffic count analysis and to address the boundary issue.

Mr. Emerson: For applicant direction, the following should be addressed:

- landscaping plan
- materials for retaining wall
- lighting
- guardrail
- steps & paths
- stormwater management cover materials
- snow storage/removal

Mr. DiMatteo: When traffic analysis is conducted, overflow parking can be reviewed.

Ms. Davis: Does the town have a survey of Old Armory Way? Mr. DiMatteo will research this.

Mr. McDavitt: He has space for more parking, but wanted to reduce site disturbance

Mr. Lincoln: Access and egress at Old Armory and Government Streets may be difficult, due to visibility and sight lines.

Ms. Kalmar moved to accept the preliminary site plan of Ken McDavitt to construct a 3-unit residential condominium with 8 commercial boat slips at 15 Old Armory Way, Tax Map 4, Lot 51 in the Mixed Use Kittery Foreside Zone, and the Shoreland and Commercial Fisheries/Maritime Activities Overlay Zones.

Mr. Emerson seconded

Motion carried: 6-0-0

Ms. Kalmar moved to schedule a Site walk for Wednesday, February 4 at 9 a.m. with a snow date of Wednesday, February 11 at 9 a.m., and to schedule a Public Hearing for February 12, 2015.

Mr. Lincoln seconded

Motion carried: 6-0-0

~~**ITEM 7 – (30 MIN.) – State Road Mixed Use Development – Sketch Plan Review** Action: Review, schedule site walk, accept Sketch Plan. Owner/Applicant HGC, LLC & Aaron Henderson, requests~~

~~approval for a mixed residential/commercial development at 42 State Road, Tax Map 3, Lots 5, 6 & 7 in the Business Local 1 Zone. Agent is Jeff Clifford, P.E. with Altus Engineering, Inc. Withdrawn per applicant request.~~

ITEM 8 – (15 MIN.) – 118 Pepperrell Road — Shoreland Development Plan Review Action: Accept or Deny Plan Application, schedule a Public Hearing and Site Walk. Steven Gerhartz and Susan Pendry, owner and applicant, requests approval to remove and reconstruct secondary dwelling unit and reconfigure existing stairs on primary dwelling unit at 118 Pepperrell Road in the Residential-Kittery Point Village and Shoreland Overlay zones, Tax Map 27, Lot 37. Agent is Ken Markley, R.L.S., North Easterly Surveying, Inc.

Ken Markley: Summarized the plan, property location and explained the prior approval improvements have been completed. They are now requesting approval to re-design the front steps, resulting in less square footage and including a garden area located in the prior step area. There will be no changes in coverage/non-vegetated surfaces or footprint in the relocation and reconstruction of the second dwelling unit. The existing building dates to the turn of the century, and the owner would like to update it for family use. The abutter would also like the structure be moved away from property line. The HAT setback is 40.5' with a proposed increase of 2 feet to 42.5'. The side property setback is now at 0 feet, and will be moved 3 feet. Building elevations included on the plan. The proposal does not increase the square footage or lot coverage, or negatively impact existing stormwater runoff. There is a 17.9% increase in volume as the existing ceilings are quite low. Adjacent to the house is a heritage apple tree, 'Ben Davis', which was valued by seafarers because of their long storage life. Mr. Markley read a letter from John Bunker, Fedco Seeds and Maine Organic Farmers Association, regarding the tree:

This letter is in support of preserving an old Kittery Point apple tree on the former George Lawson property. The tree is a classic old New England variety called 'Ben Davis'. The actual history behind the Ben Davis remains shrouded in mystery. Some think it originated in Minot, just 80 miles from Kittery. We do know that the Ben Davis apple played a key role in the early agriculture history of the state. Ben Davis trees were a fixture in old Maine orchards in the 19th Century. The apples themselves were packed into barrels and stored in farm cellars or shipped as far away as Liverpool, England. I have traveled in all of Maine's sixteen counties in search of ancient apple trees. Unfortunately, the old trees were, for many years, taken for granted. They are now rapidly disappearing from the landscape. Unlike today, when local food might be called a fad, old apple varieties come from a time when Mainers were utterly dependent on local food. Trees such as the Kittery Point 'Ben Davis' are part of our historical heritage. It is my opinion that you would do well to do everything you can to preserve this unique piece of our history.

Mr. Markley: The plan is presented to preserve this tree, which is actually quite large. The flood zone requires raising the structure a minimum of 1 foot, but recommends a bit higher.

Ms. Davis: Will there be a new foundation?

Mr. Markley: There will be new footings, probably a slab.

Ms. Kalmar: The plan showing prior plan proposals is confusion and requests an existing conditions plan be used to support the current proposal.

Ms. Wells: The driveway should remain gravel, not as the note suggests.

Mr. Markley: A set of old steps have not yet been removed, but will be. He will make the requested changes to the plan, noting it is an amendment to an approved plan showing existing conditions.

Ms. Kalmar moved to accept the amended shoreland development plan application from Steven Gerhartz and Susan Pendry to remove and reconstruct a secondary dwelling unit and reconfigure existing stairs on the primary dwelling unit at 118 Pepperrell Road in the Residential-Kittery Point Village and Shoreland Overlay zones, Tax Map 27, Lot 37, conditioned that the plan provided for preliminary review be amended as discussed January 8, 2015.

Mr. Emerson seconded
Motion carried 6-0-0

Ms. Kalmar moved to schedule a Public Hearing for February 12, and a site walk for Wednesday, February 4 at 10:00 a.m. with a snow date of Wednesday, February 11 at 10:00 a.m.

Mr. Lincoln seconded
Motion carried 6-0-0

Ms. Grinnell: The bylaws are included for review prior to the scheduled January 22 meeting.

Mr. Emerson moved to adjourn
Ms. Kalmar seconded
Motion carried unanimously

The Kittery Planning Board meeting of January 8, 2015 adjourned at 8:00 p.m.
Submitted by Jan Fisk, Recorder